

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ELCOMMERCE.COM, INC.,

Plaintiff-Counter-Defendant,

V. 

SAP AG and SAP AMERICA, INC.,

Defendants-Counter Plaintiffs.

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Civil Action No. 2:09-CV-04458-JD

FILED

MAR 29 2011

RECEIVED Clerk
U.S. District Court
Eastern District of Pennsylvania

PROPOSED FINAL JUDGMENT

Having considered the Joint Motion for Entry of Final Judgment, the Court enters an appealable final judgment as follows:

A. The Court's construction of "independent supply chain site" along with the construction and use of "each" precludes a finding that SAP infringes asserted method claims 1, 3, 4, 12, 13, 17-21, 38, 43, 44, 47, 53, and 54;

B. The Court's construction of "scanning" along with the construction and use of "independent supply chain site" and "each" precludes a finding that SAP infringes asserted method claim 50;

C. The Court's declaration that independent system claims 22 and 37 and dependent claim 25 are invalid as indefinite under 35 U.S.C. § 112, ¶ 2, for failure to identify corresponding structure as required by 35 U.S.C. § 112, ¶ 6, for all means plus function elements renders all the asserted system claims 22-30, 32, 33, and 37 invalid;

D. SAP's counterclaims and defenses not specifically addressed above are dismissed without prejudice. Should an appeal result in a remand and reversal, SAP shall be permitted to assert its dismissed counterclaims and defenses without motion to the Court;

E. elcommerce's infringement claims asserting system claims 22-30, 32, 33, and 37 are denied because the Court found those claims invalid;

F. The parties shall have the same right of appeal they would have had in the event a final judgment had been entered following a dispositive ruling by the Court; and

G. The parties shall be entitled to seek their fees and costs, but the determination of any fees or costs is deferred until after the resolution of any appeal from this judgment (or until the period for appeal expires, if none is taken).

IT IS SO ORDERED

Date: 3/24, 2011

Jan E. Dubois
United States District Judge